

RECEIVED
REGIONAL HEARING
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

'01 DEC 21 P12:54

IN THE MATTER OF:

DynaChem, Inc.
Georgetown, Illinois

Respondent.

)
) Docket No. CA-4-2001-013
)
)
) Proceeding to Assess
) Administrative Penalties
) under Section 113(d) of the
) Clean Air Act,
) 42 U.S.C. § 7413(d)

CONSENT AGREEMENT AND FINAL ORDER

Complainant, the Director, Air and Radiation Division, Region 5, United States Environmental Protection Agency (U.S. EPA), having filed the Administrative Complaint for this civil administrative action against DynaChem, Inc. Georgetown, Illinois (Respondent); and;

The parties having agreed that the resolution of this action is in the public interest and that the entry of this Consent Agreement and Final Order (CAFO) without further litigation is the most appropriate means of resolving this action;

NOW, THEREFORE, based upon the pleadings, before the taking of any testimony, without the adjudication of any issue of fact or law, and upon the consent and agreement of the parties, it is hereby Ordered as follows:

I. PRELIMINARY STATEMENT

1. On July 17, 2001, Complainant initiated this action for the assessment of a civil penalty pursuant to Section 113(d) of the Clean Air Act (“the Act”), 42 U.S.C. § 7413(d)(1), and Sections 22.01(a)(2) and 22.13 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits (the Consolidated Rules of Practice), Final Rule, 64 Fed. Reg. 40138, codified at 40 C.F.R. §§ 22.1(a)(2) and 22.13.

2. This Consent Agreement and Final Order (CAFO) is a final settlement of case CAA-5-2001-013 with regard to all allegations against DynaChem.

3. The Complaint alleges that DynaChem violated Section 112 of the Act, 42 U.S.C. § 7412, and the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Hazardous Organic Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (Hazardous Organic NESHAP or HON), 40 C.F.R. Part 63, Subpart F, G, and H (§63.100 through 63.182), in connection with leak detection instruments on chemical manufacturing process units. Specifically, the Complaint alleges that DynaChem: 1) failed to properly calibrate an instrument used for VOC leak monitoring and leak detection as required by 40 C.F.R. Part 60, Appendix A, Method 21; and 2) failed to maintain the detection instrument to meet performance criteria of 40 C.F.R. Part 60, Appendix A, Method 21.

4. DynaChem did not file an Answer to the Complaint, but instead proposed a settlement offer, which was accepted by U.S. EPA. Accordingly, DynaChem will not file an Answer to the Complaint.

5. DynaChem denies the allegations contained in Counts 1 and 2 of the Complaint, and

denies that it violated the Act. To avoid the uncertainties of litigation, DynaChem and Complainant have determined that this matter should be settled without a hearing or further proceedings, upon the terms set forth in this CAFO.

6. DynaChem admits the jurisdictional allegations set forth in the Complaint.
7. DynaChem waives its right to a hearing on the allegations of the Complaint.
8. This CAFO shall apply to and be binding upon DynaChem and its successors and assigns, including, but not limited to, subsequent purchasers.
9. DynaChem certifies that it is in full compliance with the NESHAP for Hazardous Organic Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.
10. DynaChem and Complainant consent to the terms of settlement set forth below.

II. TERMS OF SETTLEMENT

11. Based on the foregoing stipulations and findings, and having taken into account the costs and uncertainties of litigation, DynaChem's full compliance history, degree of culpability, economic benefit or savings resulting from the alleged violations, the size of DynaChem's organization and the economic impact of the penalty on the organization, DynaChem's good faith efforts to comply, and particularly U.S. EPA's financial analysis of DynaChem's ability to pay, Complainant agrees to mitigate DynaChem's portion of the \$8,296.00 penalty to \$5,000.

12. The initial proposed penalty was based upon DynaChem's agreement to purchase a new Century Portable Toxic Vapor Analyzer (TVA 1000B) at a cost of \$7,985.00. The equipment was purchased on June 11, 2001, and will be used for VOC leak monitoring and leak detection as required by 40 C.F.R. Part 60, Appendix A, Method 21.

13. Within thirty (30) days following the effective date of this CAFO, DynaChem shall

pay a civil penalty in the amount of Five Thousand Dollars (\$5,000) for the alleged CAA violations. Payment shall be made by certified or cashier's check payable to "Treasurer, United States of America." DynaChem shall send the check to:

U.S. EPA - Region 5
P.O. Box 70753
Chicago, Illinois 60673

The check shall reference the name of the case, the name of the establishment, the Docket Number of the CAFO and the billing document number. A copy of the check shall also be sent to each of the following addresses:

Regional Hearing Clerk (E-19J)
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Section Secretary (AE-17J)
Air Enforcement Section
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Kathleen Kelly Schnieders (C-14J)
Associate Regional Counsel
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Failure to pay the entire proposed penalty may result in the referral of this matter to the United States Department of Justice for collection.

13. Interest and late charges shall be paid as specified in Paragraph 14 below.

14. Pursuant to 31 U.S.C. § 3717, U.S. EPA is entitled to assess interest and penalties on

debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 102.13(c). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees. In addition, a penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 40 C.F.R. §§ 102.13 (d) and (e).

15. DynaChem consents to the issuance of this CAFO.

16. This CAFO constitutes a settlement by U.S. EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), for the allegations in the Complaint against DynaChem. Nothing in this CAFO is intended to nor shall be construed to operate in any way to resolve any criminal liability of DynaChem. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by U.S. EPA, and it is the responsibility of DynaChem to comply with such laws and regulations.

17. Nothing in this CAFO shall relieve DynaChem of the duty to comply with all applicable provisions of the Clean Air Act and other Federal, State and local laws, statutes and regulations.

18. Each undersigned representative of each party to this CAFO certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms of this CAFO

and to bind that party to such terms.

19. This CAFO constitutes the entire agreement between Complainant and DynaChem.

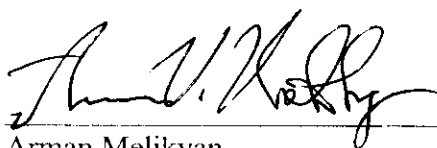
20. The parties to this agreement consent to the entry of this CAFO without further notice.

21. Each party shall bear its own costs, fees and disbursements in this action.

22. This is a "Final Order" for purposes of the "enforcement response" policy set forth in U.S. EPA's penalty policies.

In the Matter of: DynaChem, Inc.
Docket No. CAA-5-2001-013
Consent Agreement and Final Order

DynaChem, Inc.
Maple Grove Road
Georgetown, Illinois 61846



Arman Melikyan
President

11/22/01

Date

Region 5
U.S. Environmental Protection Agency
Complainant



Bharat Mathur, Director
Air & Radiation Division

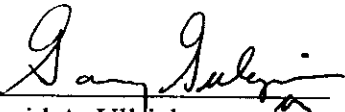
12/17/01

Date

In the Matter of: Dynachem, Inc.
Docket No. CAA-5-2001-013
Consent Agreement and Final Order

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The respondent is hereby ordered to comply with all of the terms and conditions of the Consent Agreement upon the filing of this Consent Agreement and Final Order with the Regional Hearing Clerk.



David A. Ullrich
Deputy Regional Administrator

12/15/01

Date

CERTIFICATE OF SERVICE

In the Matter of DynaChem Inc.

Docket No: CAA-5-2001-001

RECEIVED
REGIONAL HEARING
CLERK

I Betty Williams, certify that I hand delivered to the original of the Consent Agreement and Final Order, docket number CAA-5-2001-013 to the Regional Hearing Clerk, Region V, United States Environmental Protection Agency, and that I mailed correct copies by First-Class, postage prepaid, certified mail, return receipt requested, to DynaChem Inc. by placing them in the custody of the United States Postal Service addressed as follows:


Arman Melikyan, President
DynaChem, Inc.
Maple Grove Road
Georgetown, Illinois 61846

I also certify that a copy of the Consent Agreement and Final Order was sent by First Class Mail to:

Julie Armitage, Acting Manager
Compliance and Systems Management Section
Illinois Environmental Protection Agency
1021 North Grand Avenue
Springfield, Illinois 62702

John Justice, Regional Manager
Field Operations Section
Region III
Illinois Environmental Protection
2009 Mall Street
Collinsville, Illinois 62234

on the 21st day of December, 2001.


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70993400 000095956985